

NOT FOR PUBLICATION

DEC 11 2008

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

DINA PALMA NERI,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 08-73378

Agency No. A095-878-064

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 1, 2008 **

Before: GOODWIN, CLIFTON and BEA, Circuit Judges.

This is a petition for review of a Board of Immigration Appeals' ("BIA")
order denying petitioner's motion to reopen removal proceedings.

We review the denial of a motion to reopen for abuse of discretion. *See*
Perez v. Mukasey, 516 F.3d 770, 773 (9th Cir. 2008).

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

The BIA did not abuse its discretion in construing petitioner's "motion for administrative closure" as a motion to reopen. In this motion, petitioner sought administrative closure to pursue possible amnesty relief should Congress pass amnesty legislation. The BIA stated correctly that the motion was filed after the final administrative decision had been entered, thus, there were no administrative proceedings to close.

The regulations provide that "a party may file only one motion to reopen," and that the motion "must be filed no later than 90 days after the date on which the final administrative decision was rendered in the proceeding sought to be reopened." *See* 8 C.F.R. § 1003.2(c)(2). The BIA did not abuse its discretion in denying petitioner's motion to reopen as untimely and numerically barred because it was petitioner's second motion to reopen and was filed on May 19, 2008, more than 90 days after the January 31, 2007 final administrative decision.

Accordingly, respondent's unopposed motion for summary disposition is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

All other pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED.